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*See original of 10/29/54
CJ-100*

1954

Nov. 10

To his Excellency, the Governor,
and the Honorable Council

Dear Sirs:

At the meeting of the Honorable Board of October 29, 1954, the transfer of \$5,759.65 of lapsed funds of the Department of Health to account 643310, Rehabilitation of Crippled Children, was authorized subject to the approval of the Attorney General. Please be advised that such approval may not be given as it is the opinion of this office that such a transfer would be improper as by its own terms it attempts to transfer funds which have lapsed.

It is provided by the last sentence of R.L. c. 22, s. 29, that "Except as otherwise specially provided, all unexpended portions of general appropriations which have not been expended during the fiscal year for which they were appropriated shall lapse at the end of thirty days after the expiration of the year". The funds sought to be transferred are portions of the Department of Health's general appropriation with no special provisions as to lapsing, and not being expended within the meaning of this section lapsed by operation of said section 29 into the general fund thirty days after the close of the past fiscal year and are not subject to transfer.

It is respectfully suggested that it would be proper action to transfer this same amount from the emergency fund in accordance with the provisions of R.L. c. 27, s. 44, as amended by c. 17, s. 1, Laws of 1953. This sum having been contracted for by the State and services received by the State, payment of which was prevented during the past fiscal year because of the inability to determine prior to the lapsing date the amount of the unexpended portion of the general appropriation of the Department of Health so

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that a transfer could not then have been made, it is my opinion that an emergency exists permitting a transfer from the emergency fund to Department of Health account 643310.

I enclose herewith a suggested resolution for use of the Honorable Board if such a transfer is desired.

Respectfully,

Richard C. Duncan
Assistant Attorney General

RCD:MP

CC: Stuart B. Wilkins, Director,
Division of Finance
Department of Health
17 Capitol Street
Concord, New Hampshire